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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2008-279*

12 **ROBERTO PATRICK PESQUEIRA**

13 11100 Telegraph Road, #3
Ventura, California 93004

A C C U S A T I O N

14 Registered Nurse License No. RN 577270

15 Respondent.
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17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the
20 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
21 Affairs.

22 **License History**

23 2. On or about February 14, 2001, the Board issued Registered Nurse License
24 Number RN 577270 ("license") to Roberto Patrick Pesqueira ("Respondent"). The license will
25 expire on April 30, 2008, unless renewed.

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STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Code section 490 states:

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

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1 **COST RECOVERY**

2 8. Code section 125.3 provides, in pertinent part, that the Board may request
3 the administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **CAUSE FOR DISCIPLINE**

7 **(Criminal Convictions)**

8 9. Respondent is subject to disciplinary action under Code sections 490 and
9 2761, subdivision (f), in that Respondent was convicted of crimes substantially related to the
10 functions, duties, and qualifications of a registered nurse, as follows:

11 a. On or about August 29, 2006, in the Superior Court of California, County
12 of Ventura, in the case entitled, *People of the State of California v. Roberto Patrick Pesqueira*
13 (Super Ct. Ventura County, 2006, Case No. 2006025585MA), Respondent was convicted on his
14 plea of guilty of violating Vehicle Code section 2800, subdivision (a) (Refuse to Comply with
15 Lawful Order), a misdemeanor.

16 b. On or about July 17, 2007, in the Superior Court of California, County of
17 Ventura, in the case entitled, *People of the State of California v. Roberto Patrick Pesqueira*
18 (Super Ct. Ventura County, 2007, Case No. 2007010058MA), Respondent was convicted on his
19 plea of guilty of violating Penal Code sections 243, subdivision (e)(1) (Battery Upon Spouse) and
20 242 (Battery), both misdemeanors.

21 c. The circumstances surrounding the convictions are that on or about March
22 16, 2007, Respondent did willfully and unlawfully use force and violence upon his estranged
23 wife by grabbing her left shoulder near the base of neck and squeezing it forcefully. Respondent
24 then followed his wife to her parents' home where he unlawfully use force and violence upon his
25 father-in-law by throwing him down to the ground, bruising and harming him.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 577270 issued to Roberto Patrick Pesqueira Roberto Patrick Pesqueira;
2. Ordering Roberto Patrick Pesqueira to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/9/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant